

DANIEL G. SWANSON, SBN 116556
dswanson@gibsondunn.com
GIBSON, DUNN & CRUTCHER LLP
333 South Grand Avenue
Los Angeles, CA 90071
Telephone: 213.229.7000
Facsimile: 213.229.7520

CYNTHIA E. RICHMAN (D.C. Bar No.
492089; *pro hac vice*)
crichman@gibsondunn.com
GIBSON, DUNN & CRUTCHER LLP
1050 Connecticut Avenue, N.W.
Washington, DC 20036
Telephone: 202.955.8500
Facsimile: 202.467.0539

JULIAN W. KLEINBRODT, SBN 302085
jkleinbrodt@gibsondunn.com
GIBSON, DUNN & CRUTCHER LLP
One Embarcadero Center, Suite 2600
San Francisco, CA 94111
Telephone: 415.393.8200
Facsimile: 415.393.8306

MARK A. PERRY, SBN 212532
mark.perry@weil.com
JOSHUA M. WESNESKI (D.C. Bar No.
1500231; *pro hac vice*)
joshua.wesneski@weil.com
WEIL, GOTSHAL & MANGES LLP
2001 M Street NW, Suite 600
Washington, DC 20036
Telephone: 202.682.7000
Facsimile: 202.857.0940

MORGAN D. MACBRIDE, SBN 301248
morgan.macbride@weil.com
WEIL, GOTSHAL & MANGES LLP
Redwood Shores Pkwy, 4th Floor
Redwood Shores, CA 94065
Telephone: 650.802.3044
Facsimile: 650.802.3100

Attorneys for Defendant APPLE INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

EPIC GAMES, INC.

Plaintiff, Counter-defendant
v.

APPLE INC.,

Defendant, Counterclaimant

Case No. 4:20-cv-05640-YGR-TSH

**DECLARATION OF MARK A. PERRY IN
SUPPORT OF APPLE INC.'S STATEMENT
IN SUPPORT OF ADMINISTRATIVE
MOTIONS TO SEAL**

The Honorable Thomas S. Hixson

1 I, Mark A. Perry, hereby declare as follows:

2 1. I am an attorney licensed to practice in the State of California, and a member of the Bar
3 of this Court. I am a partner at the law firm Weil, Gotshal & Manges LLP, counsel of record for Apple
4 Inc. (“Apple”) in this case. I am familiar with Apple’s treatment of highly proprietary and confidential
5 information based on my personal experience representing Apple. I have personal knowledge of the
6 facts stated below and, if called as a witness, would testify competently thereto. I submit this declaration
7 in support of Apple’s Statement in Support of Administrative Motions to Seal.¹

8 2. I am aware that the law of this Circuit allows information to be filed under seal for good
9 cause or in certain compelling circumstances. I also understand that courts routinely seal filings where
10 documents include a company’s trade secrets, internal codenames, confidential research and
11 development, personally identifiable information, or other commercially sensitive information. I
12 understand that this Court has broad latitude to prevent the public disclosure of these categories of
13 commercially sensitive information.

14 3. Apple operates in an intensely competitive environment. Apple has serious and
15 legitimate concerns that competitors will be quick to capitalize on any release of Apple’s highly sensitive
16 information in order to gain competitive advantage. As such, Apple takes extensive measures to protect
17 the confidentiality of its information.

18 4. Apple has carefully reviewed the exhibits to Epic Games, Inc.’s Administrative Motions
19 to Consider Whether Another Party’s Material Should Be Sealed Pursuant to Civil Local Rule 79-5
20 (“Epic’s Motions”) (Dkts. 1201, 1203, 1212), and now proposes to partially seal information therein
21 that, if disclosed, could harm Apple’s competitive business interests and reveal personally identifiable
22 information. For ease of reference, I refer to Exhibit A (1201), Exhibit A (1203), and Exhibit A (1212).

23 5. Exhibit A (1201) and Exhibit A (1212) contain competitively sensitive, non-public
24

25
26 ¹ Courts in the Ninth Circuit routinely grant motions to seal based on declarations of counsel. *See*,
27 *e.g.*, *In re Apple Securities Litigation*, 19-cv-02033-YGR, Dkt. 223 (N.D. Cal.); *In re Qualcomm Litig.*,
No. 17-cv-00108-GPC, Dkt. 398-1 (S.D. Cal. Mar. 26, 2018); *Avago Techs. U.S. Inc. v. Iptronics Inc.*,
No. 10-cv-02863-EJD, Dkt. 544 (N.D. Cal. Apr. 3, 2015); *Cisco Sys., Inc. v. OpenTV Inc.*, No. 13-cv-
00282-EJD, Dkt. 76 (N.D. Cal. Oct. 8, 2013). If the Court deems this declaration insufficient, Apple
28 respectfully requests that it be permitted to file a further declaration supporting filing under seal.

information regarding Apple's engagement of outside counsel and consultants in connection with various regulatory issues. Exhibit A (1203) contains non-public information about Apple's use of certain confidential codenames related to new product developments. Public disclosure would reveal Apple's internal business and legal decision-making, which could be used by competitors to gain an unfair competitive advantage over Apple. Exhibit A (1201) and Exhibit A (1203) also contain personally identifiable information in the form of email addresses of Apple employees. Apple has narrowly-tailored its sealing request as to maximize the public's access to court documents without jeopardizing Apple's business interests. The remainder of the exhibits remain unredacted.

6. Below is a chart detailing the portions of the exhibits sealable for the reasons explained herein, as well as in Apple's statement.

Portion of Document Sought to be Sealed	Document Title	Reason to Seal
Redacted email addresses in "Privilege Logs: Business and Communication Emails"	Exhibit A to Dkt. 1201	Reflects personally identifiable information
Redacted email addresses in "Privilege Logs: Document Sent to Epic and Cover Email"	Exhibit A to Dkt. 1201	Reflects personally identifiable information
Redacted email addresses in "Privilege Logs: Business Presentation and Cover Email"	Exhibit A to Dkt. 1201	Reflects personally identifiable information
Redacted email addresses and outside counsel/consultants in "Privilege Logs: Lobbying- and Consulting-Related Documents Shared with Third Parties"	Exhibit A to Dkt. 1201	Reflects non-public Apple legal and business strategy and personally identifiable information
Redacted email addresses in "Privilege Logs: Predominantly Non-Legal Emails"	Exhibit A to Dkt. 1203	Reflects personally identifiable information

Portion of Document Sought to be Sealed	Document Title	Reason to Seal
Redacted email addresses in “Privilege Logs: Emails Sent Among Business and Press Personnel, Copying an Attorney”	Exhibit A to Dkt. 1203	Reflects personally identifiable information
Redacted email addresses and project codenames in “Privilege Logs: Predominantly Non-Legal Emails”	Exhibit A to Dkt. 1203	Reflects non-public Apple business strategy and personally identifiable information
Redacted firm and attorney names on pages 4–5	Exhibit A to Dkt. 1212	Reflects non-public Apple business and legal strategy

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct. Executed this 19th day of February 2025, in Oakland, California.

Dated: February 19, 2025

Respectfully submitted,

By: /s/ Mark A. Perry

Mark A. Perry